

Message Text

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E.O. 11652: NA
TAGS: PINT, CA
SUBJECT: QUEBEC LANGUAGE LAW HELD UNCONSTITUTIONAL

REF: OTTAWA 10066, DEC. 1977

1. CHIEF JUSTICE JULES DESCHENES OF THE QUEBEC SUPERIOR COURT RULED YESTERDAY THAT QUEBEC'S LANGUAGE LAW (BILL 101) IS UNCONSTITUTIONAL INsofar AS IT MAKES FRENCH THE ONLY OFFICIAL LANGUAGE OF JUDICIAL AND LEGISLATIVE ACTS. THE JUDGE RULED THAT ARTICLE 133 OF THE BRITISH NORTH AMERICA ACT MADE BOTH FRENCH AND ENGLISH OFFICIAL LANGUAGES IN THE COURTS AND WITH RESPECT TO LEGISLATIVE ACTIONS AND THAT ALL SEVEN ARTICLES IN CHAPTER 3 OF BILL 101 CONTRAVENE THAT ARTICLE OF CANADA'S CONSTITUTION.

2. AS BACKGROUND TO FAR-REACHING IMPLICATIONS OF RULING, IT SHOULD BE NOTED THAT TRADITIONALLY QUEBEC LEGISLATION HAS BEEN PRINTED BI-LINGUALLY, FRENCH IN LEFT COLUMN, ENGLISH IN RIGHT COLUMN, AND HAS GONE TO LIEUTENANT GOVERNOR FOR ASSENT IN BILINGUAL FORM. BILL 101 WAS SENT TO LT. GOVERNOR IN FRENCH ONLY; APPROXIMATELY SIXTY DAYS LATER AN ENGLISH TEXT WAS FORWARDED WHICH THE
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LT. GOVERNOR DECLINED TO SIGN ON THE GROUND THAT -- SINCE THE BILL SET FORTH THE LACK OF AUTHENTICITY OF AN ENGLISH VERSION -- THERE WAS NO POINT TO HIS GIVING ASSENT TO AN UNAUTHENTIC TEXT. ALL SUBSEQUENT BILLS HAVE SIMILARLY BEEN IN FRENCH ONLY.

3. QUESTION HAS PROMPTLY ARISEN THEREFORE WHETHER REST OF BILL 101 AND ALL SUBSEQUENT LEGISLATION ARE INVALID FOR LACK OF

COMPLIANCE WITH ARTICLE 133. IF SO, SOME 45 PIECES OF LEGISLATION WOULD HAVE TO BE RE-ENACTED RETROACTIVELY IN ORDER TO HAVE HAD FORCE SINCE THEIR ORIGINAL ANACTMENT. THIS COULD AND WOULD, OF COURSE, COMPLETELY WRECK OTHERWISE EXPECTED LEGISLATIVE TIMETABLE.

4. RULING APPLAUDED NATURALLY BY ANGLO COMMUNITY AND MEMBERS OF FRENCH ESTABLISHMENT. FRIENDS IN LEGAL COMMUNITY CERTAIN RULING WILL BE UPHELD ON APPEAL. IN VIEW UNCERTAINTY RE RAMIFICATIONS, THERE IS GENERAL AGREEMENT APPELLATE COURT WILL EXPEDITE BUT WE ARE TOLD EARLIEST POSSIBLE DATE WOULD BE MAY. PETER BLAIKIE, ONE OF PLAINTIFFS, TOLD CG THEY FEEL SURE IT WILL BE NOT LATER THAN EARLY SUMMER BY TIME OF APPELLATE RULING.

5. COMMENT: IF CASE TAKEN AS FAR AS SUPREME COURT, POSSIBILITY EXISTS IT COULD BE SIMILAR FODDER FOR PEQUISTES' PROPAGANDA TO THAT EVOKED BY SUPREME COURT RULING ON CABLE TV (REFTEL). THERE WOULD APPEAR TO BE NO REPEAT NO GROUNDS AT THE MOMENT, HOWEVER, FOR ATTACK ON BASIS OF BIAS SINCE DESCHENES HAS BEEN CONSIDERED SYMPATHIZER OF PRESENT GOVERNMENT. MADE "NEW DAY HAS DAWNED" COMMENT PUBLICLY ON NOVEMBER 16, 1976, THAT WAS CONSIDERED BY MANY AS EXTREME FOR A MEMBER OF THE COURT AND HAS RULED ON OTHER BILL 101 CHALLENGES IN AREA OF LANGUAGE OF INSTRUCTION IN FAVOR OF THE GOVERNMENT.

6. QUEBEC CITY REPORTING ON GOVERNMENT REACTIONS AND ACTIONS.
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